IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CENTRAL EXCISE & CUSTOMS GOLD CONTROL APP No 2 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PAM CONSULTANTS

Versus

COMM. OF CUSTOMS

Appearance:

1. CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No. 2 of 2003
MR BHARAT T RAO for Applicant
MR DN PATEL for Opponents

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE K.M.MEHTA

Date of decision: 09/05/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

Rule. Mr. D.N. Patel waives service of rule for the opponents. The CEGAT is directed to forward the statement of case under Section 35H of the Central Excise Act, 1944 along with the following question of law which arises in the matter.

"Is the applicant-assessee entitled to claim refund of duty paid on the scanner unit used by the applicant-assessee for development of software on the ground that the duty paid cannot be said to have been passed on to the buyers of the software?"

Rule is made absolute accordingly with no order as to costs.

[R.K. ABICHANDANI, J.]

[K.M. MEHTA, J.]

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